#### JS 44 (Rev. 06/17)

# Case 2 1 0 - 2366-PBT Document 1 Filed 05/22/19 Page 1 of 12 CIVIL COVER SHEET 19-47-2366

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as

purpose of initiating the civil d	ocket sheet. (SEE INSTRUCT	TONS ON NEXT PAGE OF	F THIS FO	RM.)	1974, 18 lequi	a Q	lile Clerk of Cou		9
I. (a) PLAINTIFFS Malibu Media, LLo	C	$\wedge$		<b>DEFENDANTS</b> JOHN DOE subs		igned IP addre	ss 71.185.77	.150	
` '	of First Listed Plaintiff L. ACEPT IN U.S. PLAINTIF CA	os Angeles SES)	<del></del>	County of Residence  NOTE: IN LAND CO THE TRACT	(IN U.S. PI	AINTIFF CASES O		<del>-</del>	
Fiore & Barber, L	Address, and Telephone Number LC., 418 Main Street 19438 - Tel: (215) 256	Suite 100		Attorneys (If Known)					
II. BASIS OF JURISDI	CTION (Place an "X" in Oi	ie Box Only)	III. CI	TIZENSHIP OF P	RINCIPA	L PARTIES	Place an "X" in O	ne Box for	 r Plaintifj
U.S. Government Plaintiff	3 Federal Question (U.S. Government A	fot a Party)			TF DEF	Incorporated or Pri	ncipal Place	PTF	d) DEF
☐ 2 U.S. Government Defendant	4 Diversity (Indicate Citizenship	o of Parties in Item III)	Citize	en of Another State	2 🗇 2	Incorporated and P of Business In A		□ 5	O 5
IV. NATURE OF SUIT				en or Subject of a  reign Country		Foreign Nation	50-i4 O- 1- D		<u> </u>
CONTRACT		N RTS	F(	RFEITURE/PENALTY		here for: Nature o	OTHER S		
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise ☐ REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	PERSONAL INJURY    310 Airplane   315 Airplane Product   Liability   320 Assault, Libel &   Slander   330 Federal Employers'   Liability   340 Marine   345 Marine Product   Liability   350 Motor Vehicle   355 Motor Vehicle   355 Motor Vehicle   Product Liability   360 Other Personal   Injury   362 Personal Injury -   Medical Malpractice   A40 Other Civil Rights   441 Voting   442 Employment   443 Housing/   Accommodations   445 Amer. w/Disabilities -   Employment   446 Amer. w/Disabilities -   Other   448 Education	PERSONAL INJURY  365 Personal Injury - Product Liability Product Liability Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability PERSONAL PROPER 370 Other Fraud 371 Truth in Lending Truth in Lending Property Damage Product Liability PRISONER PETITION Habens Corpus: 463 Alien Detainee 510 Motions to Vacate Sentence	TY	CABOR  of Property 21 USC 881  Other  LABOR  Fair Labor Standards Act  Labor/Management Relations  Railway Labor Act  Family and Medical Leave Act  Other Labor Litigation  Employee Retirement Income Security Act  IMMIGRATION  Naturalization Application  Other Immigration  Actions	422 Appe	al 28 USC 158 Irawal SC 157  TY RIGHTS rights 1 - Abbreviated Drug Application mark SECURITY 1395ff) Lung (923) C/DIWW (405(g)) Title XVI 405(g)) LTAX SUITS (U.S. Plaintiff fendant)	□ 375 False Clai □ 376 Qui Tam ( 3729(a)) □ 400 State Reap □ 410 Antitrust □ 430 Banks and □ 450 Commerce □ 460 Deportatic □ 470 Racketeer □ Corrupt On □ 480 Consumer □ 490 Cable/Sat □ 850 Scentrities' □ 850 Scentrities' □ 851 Agricultur □ 853 Environme □ 855 Freedom □ 856 Arbitration □ 859 Administra □ Act/Review Agency De □ 950 Constitutic State Statu	ms Act (31 USC) poortioning Banking on Influenced reganization Credit TV (Commodi atory Activati Acts ental Matter of Informat on the procession onality of	d and ns ities/
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VII. REQUESTED IN COMPLAINT:	CHECK IF THIS I UNDER RULE 23	S A CLASS ACTION , F.R.Cv.P.		150000.00		JRY DEMAND:	Yes	ompiaini: □No	
VIII. RELATED CASE IF ANY	E(S) (See instructions);	JUDGE				T NUMBER	MAY 22		19
DATE		SIGNATURE OF ATT	ORNEY C	FRECORE					
4/29/2019 FOR OFFICE USE ONLY		_(							
	4OUNT	APPLYING IFP		JUDGE		MAG. JUD	3E		





2366

DESIGNATION FORM

(to be used by counsel or pro se plainiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 30700 Russell Ranch Road, Suite 250, Westlake Village, CA. 91362 Address of Defendant: John Doe subscriber assigned IP address 71.185.77.150 - Glenside, PA Place of Accident, Incident or Transaction: All Infringements occurred within this jurisdictional district

RELATED CASE, IF ANY:					
Case Number: Judge: Date Terminated:					
Civil cases are deemed related when Yes is answered to any of the following questions:					
<ol> <li>Is this case related to property included in an earlier numbered suit pending or within one year         yes No          No          No</li></ol>					
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?					
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?					
4. Is this case a second or successive habeas corpus, so that security appeal, or pro se civil rights  Yes  No  Ves  No					
I certify that, to my knowledge, the within case is is not related to any case new pending or within one year previously terminated action this court except as noted above.  DATE: 04/29/2019  83018	. in				
Attorney-at-Law P.Pro Se Plaintiff Attorney I.D. # (if applicable)					
CIVIL; (Place a √ in one category only)					
A. Federal Question Cases:    1. Indemnity Contract, Marine Contract, and All Other Contracts   2. FELA   2. Airplane Personal Injury   3. Jones Act-Personal Injury   4. Antitrust   4. Marine Personal Injury   5. Patent   5. Motor Vehicle Personal Injury   6. Labor-Management Relations   6. Other Personal Injury (Please specify):   7. Civil Rights   7. Products Liability — Asbestos   9. Securities Act(s) Cases   9. All other Personal Cases   10. Social Security Review Cases   11. Insurance Contract and Other Contracts   1. Insurance Contract and Other Contracts   1. Insurance Contract and Other Contracts   1. Insurance Contract and Other Contracts   2. Airplane Personal Injury   2. Airplane Personal Injury   3. Assault, Defamation   4. Marine Personal Injury   5. Motor Vehicle Personal Injury   6. Other Personal Injury (Please specify):   7. Products Liability — Asbestos   9. All other Diversity Cases (Please specify):   1. Insurance Contract and Other Contracts   2. Airplane Personal Injury   3. Assault, Defamation   4. Marine Personal Injury   5. Motor Vehicle Personal Injury   5. Motor Vehicle Personal Injury   6. Other Personal Injury   7. Products Liability   7. Products Liability   8. Products Liability   9. Air					
ARBITRATION CERTIFICATION					
(The effect of this certification is to remove the case from eligibility for arbitration.)  Christopher P. Fiore  Christopher P. Fio					
DATE: 04/29/2019  Attorney-at-Law / Pro Se Plaintiff  Attorney 1.D. # (If applicable)	<del></del>				
NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.  Attorney-at-Law / Pro Se Plaintiff  Attorney I.D. # (if applicable)  MAY 22 2019					



#### IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

### CASE MANAGEMENT TRACK DESIGNATION FORM

Malibu Media, LLC	; ;	CIVIL ACTION
Manou Media, LLC	;	
v.	•	
John Doe subscriber assigned	:	19 236 <i>6</i>
IP Address 71.185.77.150	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

Telephone	FAX Number		
215-256-0205	215-256-9205	cfiore@fiorebarber.co	<u>m</u>
Date	Attorney-at-law	Attorney for	
04/29/2019	Christopher P. Fiore	Plaintiff	
(f) Standard Management –	Cases that do not fall into any one	of the other tracks.	( )
commonly referred to as	ases that do not fall into tracks (a) complex and that need special or de of this form for a detailed expl	intense management by	(X)
(d) Asbestos – Cases involvi exposure to asbestos.	ng claims for personal injury or pr	roperty damage from	( )
(c) Arbitration – Cases requi	red to be designated for arbitration	n under Local Civil Rule 53.2.	( )
(b) Social Security – Cases re and Human Services den	equesting review of a decision of ying plaintiff Social Security Bendary	the Secretary of Health efits.	( )
(a) Habeas Corpus – Cases b	rought under 28 U.S.C. § 2241 th	rough § 2255.	( )
SELECT ONE OF THE FO	LLOWING CASE MANAGEM	ENT TRACKS:	

(Civ. 660) 10/02

4400

## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

	X		
MALIBU MEDIA, LLC,	:	Civil Action No.	
Plaintiff,	;		
VS.	; ;	19	2366
JOHN DOE subscriber assigned IP address 71.185.77.150,	:		
Defendant.	; ;		
	X		

## COMPLAINT-ACTION FOR DAMAGES FOR PROPERTY RIGHTS INFRINGEMENT

Plaintiff, Malibu Media, LLC, sues Defendant John Doe subscriber assigned IP address 71.185.77.150, and alleges:

#### Introduction

- 1. This matter arises under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the "Copyright Act").
- 2. Defendant is a persistent online infringer of Plaintiff's copyrights. Defendant's IP address as set forth on Exhibit A was used to illegally distribute each of the copyrighted movies set forth on Exhibit B.
- 3. Plaintiff is the registered owner of the copyrights set forth on Exhibit B (the "Copyrights-in-Suit").

#### Jurisdiction And Venue

- 4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair competition).
- 5. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that the Defendant's acts of copyright infringement occurred using an Internet Protocol address ("IP address") traced to a physical address located within this District, and therefore this Court has personal jurisdiction over the Defendant because (i) Defendant committed the tortious conduct alleged in this Complaint in this State, and (ii) Defendant resides in this State and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.
- 6. Based upon experience filing over 1,000 cases the geolocation technology used by Plaintiff has proven to be accurate to the District level in over 99% of the cases.
- 7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this State; additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because Defendant or Defendant's agent resides or may be found in this District.

#### **Parties**

8. Plaintiff, Malibu Media, LLC, (d/b/a "X-Art.com") is a limited liability company organized and existing under the laws of the State of California and has its principal place of business located at 30700 Russell Ranch Road, Suite 250, Westlake Village, CA 91362.

- 9. Plaintiff only knows Defendant by his, her or its IP Address. Defendant's IP address is set forth on Exhibit A.
  - 10. Defendant's Internet Service Provider can identify the Defendant.

#### Factual Background

- I. <u>Defendant Used the BitTorrent File Distribution Network To Infringe Plaintiff's</u>
  <u>Copyrights</u>
- 11. The BitTorrent file distribution network ("BitTorrent") is one of the most common peer-to-peer file sharing systems used for distributing large amounts of data, including, but not limited to, digital movie files.
- 12. BitTorrent's popularity stems from the ability of users to directly interact with each other in order to distribute a large file without creating a heavy load on any individual source computer and/or network. The methodology of BitTorrent allows users to interact directly with each other, thus avoiding the need for intermediary host websites which are subject to DMCA take down notices and potential regulatory enforcement actions.
- 13. In order to distribute a large file, the BitTorrent protocol breaks a file into many small pieces. Users then exchange these small pieces among each other instead of attempting to distribute a much larger digital file.
- 14. After the infringer receives all of the pieces of a digital media file, the infringer's BitTorrent client software reassembles the pieces so that the file may be opened and utilized.
  - 15. Each piece of a BitTorrent file is assigned a unique cryptographic hash value.
- 16. The cryptographic hash value of the piece ("piece hash") acts as that piece's unique digital fingerprint. Every digital file has one single possible cryptographic hash value correlating to it. The BitTorrent protocol utilizes cryptographic hash values to ensure each piece is properly routed amongst BitTorrent users as they engage in file sharing.

3

- 17. The entirety of the digital media file also has a unique cryptographic hash value ("file hash"), which acts as a digital fingerprint identifying the digital media file (which contains a video or series of videos). Once infringers complete downloading all pieces which comprise a digital media file, the BitTorrent software uses the file hash to determine that the file is complete and accurate.
- 18. Plaintiff's investigator, IPP International UG established a direct TCP/IP connection with the Defendant's IP address as set forth on Exhibit A.
- 19. Plaintiff's investigator downloaded from Defendant one or more pieces of each of the digital media files identified by the file hashes listed on Exhibit A.
- 20. Each digital media file as identified by the file hash listed on Exhibit A correlates to a copyrighted film owned by Plaintiff, as set forth on Exhibit B.
- 21. A full copy of each digital media file was downloaded from the BitTorrent file distribution network, and it was confirmed through independent calculation that the file hash correlating to each file matched what is listed on Exhibit A. At no point was Plaintiff's copyrighted content uploaded to any other BitTorrent user.
- 22. Each digital media file as identified by the file hash listed on Exhibit A has been verified to contain a digital copy of a movie that is identical (or alternatively, strikingly similar or substantially similar) to Plaintiff's corresponding original copyrighted work listed on Exhibit B.
- 23. Plaintiff owns the copyrights to the original works (the "Copyrights-in-Suit"). An overview of the Copyrights-in-Suit, including each hit date, date of first publication, registration date, and registration number issued by the United States Copyright Office is set forth on Exhibit B.

4

- 24. Defendant downloaded, copied, and distributed a complete copy of Plaintiff's works without authorization as enumerated on Exhibits A and B.
- 25. Plaintiff's investigator connected, over a course of time, with Defendant's IP address for each digital media file identified by the hash value as listed on Exhibit A. The most recent TCP/IP connection between IPP and the Defendant's IP address for each file hash value listed on Exhibit A is included within the column labeled Hit Date UTC. UTC refers to Universal Time which is utilized for air traffic control as well as for computer forensic purposes.
- 26. Plaintiff's evidence establishes that Defendant is a habitual and persistent BitTorrent user and copyright infringer.

#### Miscellaneous

- 27. All conditions precedent to bringing this action have occurred or been waived.
- 28. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

## COUNT I <u>Direct Infringement Against Defendant</u>

- 29. The allegations contained in paragraphs 1-28 are hereby re-alleged as if fully set forth herein.
- 30. Plaintiff is the owner of the Copyrights-in-Suit, as outlined in Exhibit B, each of which covers an original work of authorship.
- 31. By using BitTorrent, Defendant copied and distributed the constituent elements of each of the original works covered by the Copyrights-in-Suit.
- 32. Plaintiff did not authorize, permit or consent to Defendant's distribution of its works.
  - 33. As a result of the foregoing, Defendant violated Plaintiff's exclusive right to:

5

- (A) Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;
- (B) Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;
- (C) Perform the copyrighted works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the works' images in any sequence and/or by making the sounds accompanying the works audible and transmitting said performance of the works, by means of a device or process, to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform); and
- (D) Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works non-sequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of "publically" display).
- 34. Defendant's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

WHEREFORE, Plaintiff respectfully requests that the Court:

- (A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works;
- (B) Order that Defendant delete and permanently remove the digital media files relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;
- (C) Order that Defendant delete and permanently remove the infringing copies of the works Defendant has on computers under Defendant's possession, custody or control;
  - (D) Award Plaintiff statutory damages per infringed work pursuant to 17 U.S.C. §

504-(a) and (c);

- (E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and
  - (F) Grant Plaintiff any other and further relief this Court deems just and proper.

#### **DEMAND FOR A JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

EFORE & BARBER

By:

Christopher P. Fiore, Esquire 418 Main Street, Suite 100 Harleysville, PA 19438

Tel: (215) 256-0205 Fax: (215) 256-9205

Email: cfiore@fiorebarber.com

PA Attorney ID: 83018

ATTORNEYS FOR PLAINTIFF

### IPP International U.G. Declaration Exhibit A File Hashes for IP Address 71.185.77.150

ISP: Verizon Internet Services
Physical Location: Glenside, PA

File Hash	Title
C21A8294E7CC4AD2F06CE6E53A730A0AA26EDA2F	Best Fashion Model Girlfriends
00627D3932625F3C1C2725D956075F503C11EC94	Hide and Sex
A2E7C9C722F886115DB58355BB3AD67238823524	First Time 18 Tight and Tiny
36D9FB041BFC71F363BDEFE88C7A43C35AF041D9	Rainbow Dildo Lesbian Orgasms
	C21A8294E7CC4AD2F06CE6E53A730A0AA26EDA2F  00627D3932625F3C1C2725D956075F503C11EC94  A2E7C9C722F886115DB58355BB3AD67238823524

**Total Statutory Claims Against Defendant: 4** 

### Copyrights-In-Suit for IP Address 71.185.77.150

ISP: Verizon Internet Services Location: Glenside, PA

Title	Registration Number	Date of First Publication	Effective Date of Registration	Most Recent Hit UTC
Best Fashion Model Girlfriends	PA0002160860	03/01/2019	03/19/2019	03/05/2019
Hide and Sex	PA0002139382	09/27/2018	10/09/2018	10/31/2018
First Time 18 Tight and Tiny	PA0002144400	10/23/2018	11/27/2018	10/29/2018
Rainbow Dildo Lesbian Orgasms	PA0002144403	10/16/2018	11/27/2018	10/18/2018

Total Malibu Media, LLC Copyrights Infringed: 4